

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

TIMOTHY L. BOOTH,	:	Civil No. 02-6752(FLW)
	:	
Plaintiff,	:	ORDER
v.	:	
	:	
LOREN, <u>et al.</u> ,	:	
	:	
Defendants.	:	
	:	

This matter having been opened to this Court by Defendant Correction Officers Thomas Wright, David Kopinski and Danette Pressley (collectively, "Defendants") on a Motion for Summary Judgment; it appearing that this matter was referred to the Honorable John J. Hughes, U.S.M.J., pursuant to 28 U.S.C. § 636(b)(1), for a Report and Recommendation; it appearing that on August 7, 2007, Magistrate Judge Hughes conducted an evidentiary hearing on the issue of exhaustion of administrative remedies wherein the Court heard testimony from two witnesses produced by Defendants, namely, Wendy Moyer, a Grievance Coordinator for the Pennsylvania Department of Corrections, and Tracey Pollock, a Grievance Review Officer for the Pennsylvania Department of Corrections; the Court also heard testimony from Plaintiff Timothy L. Booth ("Plaintiff"); it further appearing that the Court has considered various documents produced by both parties that were subsequently admitted into evidence; it appearing that on August 9, 2007, Magistrate Judge Hughes, for the reasons stated in his Report and Recommendation, found that Plaintiff indeed failed to exhaust all available administrative remedies, and recommends to this Court that summary judgment should be granted with respect to the remaining defendants in this case; it appearing that Plaintiff, on August 21, 2007, objected to Magistrate Judge Hughes' Report and Recommendation pursuant

to L. Civ. R. 72.1(c)(2), and Defendants, subsequently, filed an opposition to Plaintiff's objections; it appearing that this Court, having considered the parties' submissions, finds that the evidence Plaintiff attempts to offer in his objections were previously considered by Magistrate Judge Hughes, and that Plaintiff raises no other meritorious contentions; accordingly, for the reasons stated in the August 9, 2007 Report and Recommendation; and for good cause shown,

IT IS on this 28th day of August, 2007,

ORDERED that the Court approves and adopts the August 9, 2007 Report and Recommendation of the Honorable John J. Hughes, U.S.M.J.;

ORDERED that Defendants' Motion for Summary Judge is hereby GRANTED based on the fact that Plaintiff failed to exhaust all available administrative remedies pursuant to 24 U.S.C. § 1997e(a); and that Plaintiff's claims against Defendants Thomas Wright, David Kopinski and Danette Pressley are dismissed WITHOUT PREJUDICE;

ORDERED that a copy of this Order shall be served upon all counsel of record and Plaintiff within seven (7) days of its entry; and it is further

ORDERED that the Clerk of the Court shall mark this case CLOSED.

/s/ Freda L. Wolfson
Freda L. Wolfson, U.S.D.J.